

IN THE COURT OF SHRI GAUTAM MANAN:
DISTRICT JUDGE (COMMERCIAL COURT)-03,
SOUTH-WEST DISTRICT, DWARKA COURTS:
NEW DELHI

CS (COMM) NO. 539/2024
CNR NO. DLSW01-010074-2024

In the matter of :

Skyhigh Solutions Vs. Traderz Planet

ORDER

*(On Applications under Order VI Rule 17 of the plaintiff and application of
the defendant under Order VII Rule 11(d) of CPC)*

1. This order shall dispose off an application filed by the plaintiff under Order VI Rule 17 read with Section 151 CPC seeking amendment of the plaint and an application filed by the defendant no.2 under Order VII Rule 11(d) read with Section 151 CPC seeking rejection of the plaint.
2. Defendant no.2 in its application under Order VII Rule 11(a) & (d) CPC raised an objection that no cause of action has arisen within the territorial jurisdiction of the Court and as per the agreement dated 26.06.2023, the jurisdiction to try the present suit is with Gautam Budh Nagar, Uttar Pradesh Court.
3. Subsequent to the objection taken by the defendant no.2, the plaintiff filed an application under Order VI Rule 17 CPC to insert the following paragraph in the plaint:

50A. That it is specifically submitted that as part of the transaction in dispute, a crucial payment of Rs. 4,72,000/- (Rupees Four Lakh Seventy-Two Thousand Only) was made by the Plaintiff to the Defendants. This payment was processed, initiated, and debited through the Plaintiff's Savings Account No. 002101603348 maintained with ICICI Bank. The foundational and registered address of the Plaintiff linked to this bank account is K-5 Pratap Enclave, Mohan Garden, Near Shani Bazar Chowk, West Delhi, Delhi 110059. Because the payment was executed from the Plaintiff's bank account operating out of the aforementioned address within the territorial limits of Delhi, a substantial, material, and integral part of the cause of action has arisen within the jurisdiction of this Hon'ble Court, rendering this suit strictly maintainable before it.

Brief Facts

4. The plaintiff instituted the present commercial suit against the defendants for recovery of Rs.17,95,180/- arising out of commercial transactions allegedly carried out between the parties in the ordinary course of business.
5. It is stated that on 26.06.2023 an agreement is executed between the plaintiff and the defendant in which the defendant is giving the authority to the plaintiff for the outsource and execution of "Inbound Call Handling & Database. On 01.09.2023, the defendant no.2 raised a bill of Rs 4,72,000/- by the plaintiff for the purpose of project fee in the favour of the defendant no.1.
6. In November 2023 the plaintiff completed its work and handover its account of work to the defendant no.1

because the defendant no.1 did not make payment to the plaintiff. It is stated that the plaintiff after entering in the above mention contract timely discharged his duties as per the contract but the defendant did not make the necessary payments to the plaintiff.

7. It is the case of the plaintiff that the total amount due towards the plaintiff is Rs 17,95,180/- inclusive of the interest amount.
8. The defendant filed an application under Order VII Rule 11 (a) & (d) CPC, contending that this Court has no territorial jurisdiction to try and entertain the present suit. It is stated that the plaintiff has founded his case on reliance upon the Agreement dated 26.06.2023, executed to govern all the alleged transactions and the commercial relationship between the plaintiff and the defendants, and the said Agreement contains a clear, specific and unequivocal clause conferring exclusive jurisdiction upon the competent Courts at "Gautam Buddh Nagar (U.P.)." The parties, by mutual consent, had consciously agreed that any disputes arising out of the Agreement would be adjudicated exclusively by the said Court.
9. Upon the said objection being raised, the plaintiff filed the present application under Order VI Rule 17 CPC seeking amendment of the plaint to clarify that part cause of action has arisen within jurisdiction of this Court.

Application of the defendant no.2 under Order VII Rule 11(a) & (d) CPC

10. In the application the defendant no.2 has stated that the plaintiff has founded his case on reliance upon the Agreement dated 26.06.2023 and which contains a clear, specific and unequivocal clause conferring exclusive jurisdiction upon the competent Court at "Gautam Buddh Nagar (U.P)." the clause reads as under:

CHOICE OF LAW

"The Federal laws of India shall govern the validity of this Agreement, the construction of its terms and interpretation of the rights and duties of the parties hereto. The exclusive venue for any dispute relating to this agreement shall be Gautam Buddh Nagar (U.P)."

11. It is stated that the parties, by mutual consent, had consciously agreed that any disputes arising out of the Agreement would be adjudicated exclusively by the said Court and the said jurisdiction clause is valid, binding, and enforceable in law, and the parties, by mutual agreement, have consciously and expressly excluded the jurisdiction of all other courts, including this Court. Reliance has been placed on Hon'ble Supreme Court of India in "*A.B.C. Laminart (P) Ltd. Vs. A.P.Agencies, (1989) 2 SCC 163*" and reiterated by the Hon'ble Supreme Court in '*Rakesh Kumar Verma vs. HDFC Bank Ltd 2025 SCC OnLine SC 752*'.

12. In '*Rakesh Kumar Verma vs. HDFC Bank Ltd (Supra)*,

Hon'ble Apex Court held as under:

17. The issue as to how an exclusive jurisdiction clause has to be read and understood is, thus, no longer res-integra.

18. A bare perusal of the above decisions leads to the conclusion that for an exclusive jurisdiction clause to be valid, it should be (a) in consonance with Section 28 of the Contract Act, i.e., it should not absolutely restrict any party from initiating legal proceedings pertaining to the contract, (b) the Court that has been given exclusive jurisdiction must be competent to have such jurisdiction in the first place, i.e., a Court not having jurisdiction as per the statutory regime cannot be bestowed jurisdiction by means of a contract and, finally, (c) the parties must either impliedly or explicitly confer jurisdiction on a specific set of courts. These three limbs/criteria have to be mandatorily fulfilled.

13. In the present case, the Agreement dated 26.06.2023 contains an express stipulation that the exclusive venue for disputes relating to the Agreement shall be Gautam Buddh Nagar, Uttar Pradesh. The material placed on record further shows that defendant no.2 has its office at 407, BSI Business Park, H-44, Sector 63, Noida, Gautam Buddh Nagar, Uttar Pradesh.

14. Thus, the Courts at Gautam Buddh Nagar are not a Court which has been conferred jurisdiction by the parties where none otherwise existed. Rather, the said Courts are otherwise competent to entertain the dispute. The parties, having consciously agreed that the exclusive venue for

disputes arising out of the Agreement would be Gautam Buddh Nagar, have thereby excluded the jurisdiction of other competent Courts.

15. The jurisdiction clause is clear and unambiguous. It manifests the intention of the parties to have disputes arising out of the Agreement adjudicated exclusively before the Courts at Gautam Buddh Nagar, Uttar Pradesh. Consequently, this Court, stands excluded from entertaining the present dispute by virtue of the express contractual stipulation between the parties.

16. It is pertinent to observe that the application filed by defendant no.2 has been styled as one under Order VII Rule 11(a) & (d) CPC. However, the objection regarding want of territorial jurisdiction does not, strictly speaking, fall within the ambit of Order VII Rule 11(d) CPC, which concerns a suit appearing from the statements in the plaint to be barred by any law. An objection relating to territorial jurisdiction is required to be considered in the context of Order VII Rule 10 CPC, which provides for return of plaint where the suit should have been instituted in another Court.

17. Accordingly, the objection raised by defendant no.2 regarding territorial jurisdiction is being considered as an objection to the maintainability of the suit before this Court under Order VII Rule 10 CPC.

18.As stated above, the said agreement confers exclusive jurisdiction to the Court at Gautam Budh Nagar, Uttar Pradesh and the said Court is competent to have such jurisdiction. The three limbs/criteria as mentioned in the above authoritative judgment is fulfilled and as such, the *plaint is liable to be returned to the plaintiff for lack of jurisdiction of this Court to try the present suit.*

Application of the plaintiff under Order VI Rule 17 CPC

19.Upon the objection regarding territorial jurisdiction being raised by defendant no.2, the plaintiff has filed the present application under Order VI Rule 17 CPC seeking to introduce paragraph 50A in the plaint.

20.By way of the proposed amendment, the plaintiff seeks to plead that a payment of Rs.4,72,000/- was processed and debited through its Savings Account No. 002101603348 maintained with ICICI Bank and that the address linked with the said bank account is K-5, Pratap Enclave, Mohan Garden, Near Shani Bazar Chowk, West Delhi, Delhi-110059.

21.The plaintiff seeks to contend, on the basis of the proposed amendment, that since the payment was made from its bank account connected with an address situated within Delhi, a substantial and integral part of the cause of action arose within the territorial jurisdiction of this Court.

22. The question which, therefore, arises is whether the plaintiff can introduce, by way of amendment, a fresh factual foundation for conferring territorial jurisdiction upon a Court which, on the basis of the plaint as originally instituted, does not possess jurisdiction to entertain the suit. In *HSIL Limited Vs. Imperial Ceramic & Anr, 2018 SCC OnLine Del 7185*, Hon'ble Delhi High Court has held as under:

22. Thus, if the plaint in these suits as it exists, does not disclose this Court to be having territorial jurisdiction, then the only option for this Court is to return/reject the plaint and this Court would not have jurisdiction to even consider the application of the plaintiff for amendment of the plaint and which amendment, if allowed, would disclose the plaint as having the necessary averments for this Court to have jurisdiction to entertain the suit.

23. In the present case, the proposed paragraph 50A is not merely explanatory or clarificatory of an existing averment regarding territorial jurisdiction. The plaintiff seeks to introduce a new factual basis, namely, the alleged payment from its bank account in Delhi, for asserting that a part of the cause of action arose within the territorial jurisdiction of this Court.

24. Once this Court has come to the conclusion, on the basis of the existing pleadings and the contractual jurisdiction clause, that it lacks territorial jurisdiction to entertain the present suit, this Court cannot permit an amendment which seeks to confer such jurisdiction upon it by

introducing a new factual foundation. Accordingly, the application *under Order VI Rule 17 CPC cannot be entertained by this Court and is liable to be dismissed.*

Conclusion

25. In view of the foregoing discussion, this Court finds that the Agreement dated 26.06.2023 contains a valid and enforceable exclusive jurisdiction clause in favour of the Courts at Gautam Buddh Nagar, Uttar Pradesh and this Court, therefore, lacks territorial jurisdiction to entertain the present suit. Consequently, the application under Order VI Rule 17 read with Section 151 CPC filed by the plaintiff is dismissed.

26. The application filed by defendant no.2 under Order VII Rule 11(a) & (d) CPC, insofar as it raises an objection regarding territorial jurisdiction, is treated as an objection under Order VII Rule 10 CPC and is allowed to that extent. The plaint is accordingly returned to the plaintiff under Order VII Rule 10 CPC for presentation before the Court of competent jurisdiction, in accordance with law.

File be consigned to Record Room

Announced in the Open Court on 12th August 2026

(GAUTAM MANAN)
District Judge, (Commercial Court)-03
South West District, Dwarka Courts
New Delhi